

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TENNESSEE  
WESTERN DIVISION**

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RowVaughn Wells, Individually and as  
Administratrix Ad Litem of the Estate of  
Tyre Deandre Nichols, deceased,

Plaintiff,

v.

Case No.: 2:23-cv-2224

**JURY DEMANDED**

The City of Memphis, a municipality;  
Chief Cerelyn Davis, in her official capacity;  
Emmitt Martin III, in his individual capacity;  
Demetrius Haley, in his individual capacity;  
Justin Smith, in his individual capacity;  
Desmond Mills, Jr., in his individual capacity;  
Tadarrius Bean, in his individual capacity;  
Preston Hemphill, in his individual capacity  
Robert Long, in his individual capacity;  
JaMichael Sandridge, in his individual capacity;  
Michelle Whitaker, in her individual capacity;  
DeWayne Smith, in his individual capacity and  
as an agent of the City of Memphis,

Defendants.

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**DEFENDANT MICHELLE WHITAKER'S RESPONSE IN OPPOSITION TO  
PLAINTIFF'S MOTION TO AMEND THE THIRD AMENDED SCHEDULING ORDER**

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**COMES NOW**, Defendant, Michelle Whitaker (hereinafter referred to as "Defendant Whitaker"), by and through undersigned counsel of record, and submits this Response in Opposition to Plaintiffs' Motion to Amend the Third Amended Scheduling Order (hereinafter referred to as the "Motion").<sup>1</sup> Defendant Whitaker states to the Court as follows:

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<sup>1</sup> See Doc. 276 entered on January 3, 2025.

Fed. R Civ. P. 16(b)(4) provides that a scheduling order “may be modified only for good cause and with the judge’s consent.” “In determining whether good cause exists, courts consider the diligence of the party seeking the extension and whether the opposing party will suffer prejudice by virtue of the amendment.” *Ruffino v. Archer*, 2018 U.S. Dist. LEXIS 232121, at \*3 (M.D. Tenn. 2018) (citing *Ott v. Publix Super Markets, Inc.*, 298 F.R.D. 550, 558 (M.D. Tenn. 2014)).

Plaintiffs have failed to demonstrate good cause to justify the requested amendment of the Third Amended Scheduling Order, especially as it pertains to Defendant Whitaker. Defendant Whitaker recognizes the inherent complexities of this case, including the criminal proceedings involving certain Defendant Officers and the on-going discovery disputes between the City of Memphis and Plaintiffs. However, there is **no** presently existing discovery dispute between Plaintiffs and Defendant Whitaker. The proposed four (4) month extension of the discovery period would disrupt the orderly progression of this matter, violate principles of fairness, and unduly prejudice Defendant Whitaker. As a result, Defendant Whitaker opposes the Motion.

The Third Amended Scheduling Order established a comprehensive timeline to ensure the efficient progression of this matter. It established the critical deadline of completing all discovery on August 29, 2025. Defendant Whitaker has complied fully with each Scheduling Order previously entered in this cause, including the deadlines imposed by the Third Amended Scheduling Order, relying in good faith on the expectation that all Parties would adhere to the Court’s Scheduling Orders. In reliance on the deadlines imposed by the Third Amended Scheduling Order, contrary to Plaintiffs’ representations, Defendant Whitaker filed an Answer to the First Amended Complaint and also Motion and Memorandum of Law In Support of Her Motion

to Dismiss on the Basis of Qualified Immunity on February 18, 2025.<sup>2</sup> Defendant Whitaker's original motion and memorandum of law to dismiss based on qualified immunity was filed on December 6, 2023, but it became moot when Plaintiffs were permitted to file their First Amended Complaint.<sup>3</sup>

Accordingly, Defendant Whitaker respectfully urges the Court to deny Plaintiffs' Motion.

Respectfully submitted,

**SPENCE PARTNERS**

By: /s/ Jarrett M.D. Spence  
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*Attorneys for Defendant Michelle Whitaker*

**CERTIFICATE OF SERVICE**

I hereby certify that on this 25th day of July, 2025, a true and correct copy of the foregoing has been filed with the Court via the Court's ECF system, and that upon filing, a copy will be sent via the Court's ECF system to all registered parties in the case.

/s/ Jarrett M.D. Spence

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<sup>2</sup> ECF DOC 306 and 307.

<sup>3</sup> ECF DOC 132.